

execution facility or to institute a proceeding to deny the proposed application under procedures specified in section 6 of the Act by notifying the Commission that the applicant seeking registration views its submission as complete and final as submitted.

(e) *Request for withdrawal of application for registration or withdrawal of registration.* An applicant to be registered, or a registered derivatives transaction execution facility may withdraw its application or its registration by filing with the Commission at its Washington, DC, headquarters such a request. Withdrawal from registration shall not affect any action taken or to be taken by the Commission based upon actions, activities or events occurring during the time that the application for registration was pending with, or that the facility was registered by, the Commission.

(f) *Delegation of authority.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, with the concurrence of the General Counsel or the General Counsel's delegatee, authority to exercise the functions provided under paragraph (d) of this section.

(2) The director may submit to the Commission for its consideration any matter that has been delegated in this paragraph.

(3) Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in paragraph (f)(1) of this section.

[66 FR 42271, Aug. 10, 2001, as amended at 67 FR 62352, Oct. 7, 2002; 67 FR 62876, Oct. 9, 2002]

#### § 37.6 Compliance with core principles.

(a) *In general.* To maintain registration as a derivatives transaction execution facility upon commencing operations by listing products for trading or otherwise, or for a dormant derivatives transaction execution facility as defined in § 40.1 of this chapter that has been reinstated under § 37.5(b)(2) upon recommencing operations by relisting products for trading or otherwise, and on a continuing basis thereafter, the derivatives transaction execution facility must have the capacity to be, and

be, in compliance with the core principles of section 5a(d) of the Act.

(b) *New and reinstated derivatives transaction execution facilities*—(1) *Certification of compliance.* Unless an applicant for registration or for reinstatement of registration has chosen to make a voluntary demonstration under paragraph (b)(2) of this section, a newly registered derivatives transaction execution facility at the time it commences operations, or a dormant derivatives transaction execution facility as defined in § 40.1 of this chapter at the time that it recommences operations, must certify to the Commission that it has the capacity to, and will, operate in compliance with the core principles under section 5a(d) of the Act.

(2) *Voluntary demonstration of compliance.* An applicant for registration or for reinstatement of registration may choose to make a voluntary demonstration of its capacity to operate in compliance with the core principles as follows:

(i) At least thirty days prior to commencing or recommencing operations, the applicant for registration or for reinstatement of registration must file (during the business hours defined in § 40.1 of this chapter) with the Secretary of the Commission at its Washington, DC, headquarters, either separately or with the application required by § 37.5, a submission that includes:

(A) The label, "Demonstration of Compliance with Core Principles for Operation";

(B) The derivatives transaction execution facility's rules, which may be trading protocols, that enable or empower the facility to comply with the core principles;

(C) Any agreements entered into or to be entered into between or among the facility, its operator or its participants that enable or empower the facility to comply with the core principles, including where applicable, technical manuals and other guides or instructions for users of the facility; and

(D) To the extent that capacity to comply with a core principle is not self-evident, a brief explanation of how the facility has the capacity to meet the core principle.

(ii) Unless the applicant requests an extension of time, the applicant shall be deemed to have demonstrated its capacity to comply with the core principles thirty days after receipt by the Commission, unless notified otherwise.

(iii) If it appears that the applicant has failed to make the requisite showing, the Commission will so notify the applicant at the end of that period. Upon commencement or recommencement of operations by the derivatives transaction execution facility, such a notice may be considered by the Commission in a determination to issue a notice of violation of core principles under section 5c(d) of the Act.

(c) *Existing derivatives transaction execution facilities*—(1) *In general.* Upon request by the Commission, a registered derivatives transaction execution facility shall file with the Commission such data, documents and other information as the Commission may specify in its request that demonstrates that the registered derivatives transaction execution facility is in compliance with one or more core principles as specified in the request or that is requested by the Commission to enable the Commission to satisfy its obligations under the Act.

(2) *Change of owners.* Upon a change of ownership of an existing registered derivatives transaction execution facility, the new owner shall file with the Secretary of the Commission at its Washington, DC, headquarters, a certification that the derivatives transaction execution facility meets the requirements for trading and the criteria for registration of sections 5a(b) and 5a(c) of the Act, respectively.

(d) *Guidance regarding compliance with core principles.* A derivatives transaction execution facility may meet the following core principles of section 5a(d) of the Act as specified in this paragraph:

(1) *Compliance with rules.* The core principle regarding compliance with rules under section 5a(d)(2) of the Act may be met, as appropriate to the facility, through the effective monitoring of limitations on access to the facility;

(2) *Monitoring of trading.* The core principle regarding monitoring of trading under section 5a(d)(3) of the Act

may be met, as appropriate to the market and the products traded thereon, by providing information to the Commission as requested to satisfy the Commission's obligations under the Act;

(3) *Disclosure of general information.* The core principle regarding disclosure of general information relevant to participation in trading on the facility under section 5a(d)(4)(D) of the Act also includes providing to market participants on a fair, equitable and timely basis information regarding, as appropriate to the market, prices, bids and offers, and such other information that the Commission may determine by rule, regulation or order, after notice and an opportunity for a hearing through submission of written data, views and arguments;

(4) *Daily publication of trading information.* The Commission will determine by order, after notice and an opportunity for a hearing through submission of written data, views and arguments, whether the requirement of the core principle on publication of trading information under section 5a(d)(5) of the Act applies to a particular product or products traded on a facility;

(5) *Fitness.* Appropriate minimum standards for participants having direct access to the facility under the core principle on fitness pursuant to section 5a(d)(6) of the Act also includes natural persons that directly or indirectly have greater than a ten percent ownership interest in the facility; and

(6) *In general.* Appendix B to this part provides guidance to registered derivatives transaction execution facilities on how the core principles under section 5a(d) of the Act could be satisfied.

[66 FR 42271, Aug. 10, 2001, as amended at 67 FR 62877, Oct. 9, 2002]

### § 37.7 Additional requirements.

(a) *Products.* Notwithstanding the provisions of section 5c(c) of the Act and § 40.2 of this chapter, derivatives transaction execution facilities need only notify the Commission of the listing of new products for trading, posting of new product descriptions, terms and conditions or trading protocols or providing for a new system product